
Durable Power of Attorney/Advance Health Care Directive Sample, Optional Forms

On July 1, 1999 Governor Cayetano signed into law ACT 169 which creates a comprehensive, modified uniform health care decisions act. ACT 169 repeals current laws on Medical Treatment Decision ("Living Will") and Power of Attorney for Health Care Decisions and consolidates them into a single statute. The law includes *sample, optional forms* to create a durable power of attorney and an advance health care directive. These forms are attached and may be modified in accordance with your wishes.

PART I: DURABLE POWER OF ATTORNEY

Part I of the sample form is a durable power of attorney in which you may designate another individual (an "agent") to make health care decisions for you should you become incapable of doing so or would like someone else to make those decisions for you now even though you are still capable of doing so.

PART II: ADVANCE HEALTH CARE DIRECTIVE

Part II of the sample form may be used to create an advance health care directive. An advance health care directive allows you to give specific instructions about your care (e.g.; whether or not you want treatment to be withheld or withdrawn, provision of pain relief, artificial nutrition and hydration).

PART III: DONATION OF ORGANS AT DEATH

Part III of the sample form allows you to specify whether or not you want to donate your organs upon your death.

PART IV: PRIMARY PHYSICIAN

Part IV of the sample form allows you to designate a physician to have primary responsibility for your health care.

SIGNING/WITNESSING THE FORM:

Once you complete the form, you must sign and date it in the presence of witnesses by one of two alternatives: 1) Before two adult witnesses neither of whom may be a health care provider, an employee of a health care provider or facility, or the agent. *At least one* of the witnesses cannot be someone who is related to you by blood, marriage, or adoption, nor entitled to any portion of your estate upon your death under any will or codicil existing at the time of execution of the power of attorney for health care or; 2) Before a notary public.

WHO TO GIVE A COPY OF THE FORM TO:

You should give a copy of the signed and completed form to your physician, to any other health care providers you may have, to any health care institution at which you are receiving care, and to any health care agents you have named. You should also talk to the person you have named as agent to make sure that he or she understands your wishes and is willing to have the responsibility of your care.

Act 169 / 1999

Uniform Health Care Decisions Act

Hawaii Revised Statutes

§ -16 Optional form. The following sample form may be used to create an advance health-care directive. This form may be duplicated. This form may be modified to suit the needs of the person, or a completely different form may be used that contains the substance of the following form.

"ADVANCE HEALTH-CARE DIRECTIVE"

Explanation

You have the right to give instructions about your own health care. You also have the right to name someone else to make health care decisions for you. This form lets you do either or both of these things. It also lets you express your wishes regarding the designation of your health care provider. If you use this form, you may complete or modify all or any part of it. You are free to use a different form.

Part 1 of this form is a power of attorney for health care. Part 1 lets you name another individual as agent to make health care decisions for you if you become incapable of making your own decisions or if you want someone else to make those decisions for you now even though you are still capable. You may name an alternate agent to act for you if your first choice is not willing, able, or reasonably available to make decisions for you. Unless related to you, your agent may not be an owner, operator, or employee of a health care institution where you are receiving care. Unless the form you sign limits the authority of your agent, your agent may make all health care decisions for you. This form has a place for you to limit the authority of your agent. You need not limit the authority of your agent if you wish to rely on your agent for all health care decisions that may have to be made. If you choose not to limit the authority of your agent, your agent will have the right to:

- (a) Consent or refuse consent to any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect a physical or mental condition;
- (b) Select or discharge health care providers and institutions;
- (c) Approve or disapprove diagnostic tests, surgical procedures, programs of medication, and orders not to resuscitate; and
- (d) Direct the provision, withholding, or withdrawal of artificial nutrition and hydration and all other forms of health care.

Part 2 of this form lets you give specific instructions about any aspect of your health care. Choices are provided for you to express your wishes regarding the provision, withholding, or withdrawal of treatment to keep you alive, including the provision of artificial nutrition and hydration, as well as the provision of pain relief medication. Space is provided for you to add to the choices you have made or for you to write out any additional wishes.

Part 3 of this form lets you donate your organs upon your death if you so desire.

Part 4 of this form lets you designate a physician to have primary responsibility for your health care.

After completing this form, sign and date the form at the end and have the form witnessed by one of the two alternative methods listed below. Give a copy of the signed and completed form to your physician, to any other health care providers you may have, to any health care institution at which you are receiving care, and to any health care agents you have named. You should talk to the person you have named as agent to make sure that he or she understands your wishes and is willing to take the responsibility.

You have the right to revoke this advance health-care directive or replace this form at any time.

PART 1
DURABLE POWER OF ATTORNEY
FOR HEALTH CARE DECISIONS

(1) **DESIGNATION OF AGENT:** I designate the following individual as my agent to make health care decisions for me:

(name of individual you choose as agent)

(address) (city) (state) (zip code)

(home phone) (work phone)

OPTIONAL: If I revoke my agent's authority or if my agent is not willing, able, or reasonably available to make a health care decision for me, I designate as my first alternate agent:

(name of individual you choose as first alternate agent)

(address) (city) (state) (zip code)

(home phone) (work phone)

OPTIONAL: If I revoke the authority of my agent and first alternate agent or if neither is willing, able, or reasonably available to make a health care decision for me, I designate as my second alternate agent:

(name of individual you choose as second alternate agent)

(address) (city) (state) (zip code)

(home phone) (work phone)

(2) **AGENT'S AUTHORITY:** My agent is authorized to make all health care decisions for me, including decisions to provide, withhold, or withdraw artificial nutrition and hydration, and all other forms of health care to keep me alive, except as I state here:

(Add additional sheets if needed)

(3) **WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE:** My agent's authority becomes effective when my primary physician determines that I am unable to make my own health care decisions unless I mark the following box. If I mark this box [☐], my agent's authority to make health care decisions for me takes effect immediately.

(4) **AGENT'S OBLIGATION:** My agent shall make health care decisions for me in accordance with this power of attorney for health care, any instructions I give in Part 2 of this form, and my other wishes to the extent known to my agent. To the extent my wishes are unknown, my agent shall make health care decisions for me in accordance with what my agent determines to be in my best interest. In determining my best interest, my agent shall consider my personal values to the extent known to my agent.

(5) **NOMINATION OF GUARDIAN:** If a guardian of my person needs to be appointed for me by a court, I nominate the agent designated in this form. If that agent is not willing, able, or reasonably available to act as guardian, I nominate the alternate agents whom I have named, in the order designated.

PART 2
INSTRUCTIONS FOR HEALTH CARE

If you are satisfied to allow your agent to determine what is best for you in making end-of-life decisions, you need not fill out this part of the form. *If you do fill out this part of the form, you may strike any wording you do not want.*

(6) **END-OF-LIFE DECISIONS:** I direct that my health care providers and others involved in my care provide, withhold, or withdraw treatment in accordance with the choice I have marked below: (Check only one box).

☐ (a) Choice Not To Prolong Life

I do not want my life to be prolonged if (i) I have an incurable and irreversible condition that will result in my death within a relatively short time, (ii) I become unconscious and, to a reasonable degree of medical certainty, I will not regain consciousness, or (iii) the likely risks and burdens of treatment would outweigh the expected benefits, OR

☐ (b) Choice To Prolong Life

I want my life to be prolonged as long as possible within the limits of generally accepted health-care standards.

(7) **ARTIFICIAL NUTRITION AND HYDRATION:** Artificial nutrition and hydration must be provided, withheld or withdrawn in accordance with the choice I have made in paragraph (6) unless I mark the following box. If I mark this box ☐, artificial nutrition and hydration must be provided regardless of my condition and regardless of the choice I have made in paragraph (6).

(8) **RELIEF FROM PAIN:** If I mark this box ☐, I direct that treatment to alleviate pain or discomfort should be provided to me even if it hastens my death.

(9) **OTHER WISHES:** (If you do not agree with any of the optional choices above and wish to write your own, or if you wish to add to the instructions you have given above, you may do so here.) I direct that:

(Add additional sheets if needed.)

PART 3
DONATION OF ORGANS AT DEATH
(OPTIONAL)

(10) Upon my death: (mark applicable box)

☐ (a) I give any needed organs, tissues, or parts,
OR

☐ (b) I give the following organs, tissues, or parts only:

☐ (c) My gift is for the following purposes (strike any of the following you do not want)
(i) Transplant, (ii) Therapy, (iii) Research, (iv) Education

PART 4
PRIMARY PHYSICIAN
(OPTIONAL)

(11) I designate the following physician as my primary physician:

(name of physician)

(address) (city) (state) (zip code)

(phone)

OPTIONAL: If the physician I have designated above is not willing, able, or reasonably available to act as my primary physician, I designate the following physician as my primary physician:

(name of physician)

(address) (city) (state) (zip code)

(phone)

(12) **EFFECT OF COPY:** A copy of this form has the same effect as the original.

(13) **SIGNATURES:** Sign and date the form here:

| | |
|-------------------------|----------------------------|
| _____ (date) | _____ (sign your name) |
| _____ (address) | _____ (print your name) |
| _____ (city) (state) | |

(14) **WITNESS:** This power of attorney will not be valid for making health-care decisions unless it is either (a) signed by two qualified adult witnesses who are personally known to you and who are present when you sign or acknowledge your signature; or (b) acknowledged before a notary public in the state.

ALTERNATIVE NO. 1

Witness

I declare under penalty of false swearing pursuant to section 710-1062, Hawaii Revised Statutes, that the principal is personally known to me, that the principal signed or acknowledged this power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence, that I am not the person appointed as agent by this document, and that I am not a health care provider, nor an employee of a health care provider or facility. I am not related to the principal by blood, marriage, or adoption, and to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

(date)

(signature of witness)

(address)

(print name of witness)

(city) (state)

Witness

I declare under penalty of false swearing pursuant to section 710-1062, Hawaii Revised Statutes, that the principal is personally known to me, that the principal signed or acknowledged this power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence, that I am not the person appointed as agent by this document, and that I am not a health care provider, nor an employee of a health care provider or facility.

(date)

(signature of witness)

(address)

(print name of witness)

(city) (state)

ALTERNATIVE NO. 2

State of Hawaii

County of _____

On this _____ day of _____, in the year _____, before me,

_____ (insert name of notary public) appeared

_____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it.

Notary Seal

(Signature of Notary Public)